

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-62066; File No. SR-NYSEArca-2010-37)

May 10, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish Strike Price Intervals and Trading Hours for Options on Index Linked Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on April 28, 2010, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to Rule 6.4 Commentary .05 to establish strike price intervals for options on Index Linked Securities<sup>3</sup>, and to amend Rule 7.1 Commentary .02, to establish

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Index-Linked Securities, also known as exchange-traded notes, are long-term notes that are the non-convertible debt of an issuer with a term of at least one year but not greater than thirty years. These exchange-traded securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes. The Exchange’s listing standards for options on Index-Linked Securities were established in July 2008. See Securities Exchange Act Release No. 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008) (SR-NYSEArca-2008-57). Other Exchanges have established similar listing standards. See Securities Exchange Act Release Nos. 58571 (September 17, 2008), 73 FR 55188 (September 24, 2008) (SR-Phlx-2008-60) (notice of filing and immediate effectiveness); 59923 (May 14, 2009), 74 FR 23902 (May 21, 2009) (SR-NASDAQ-2009-046) (notice of filing and immediate effectiveness); 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (SR-CBOE-2008-64) (approval order); and 58985 (November 20, 2008), 73 FR 72538 (November 28, 2008) (SR-ISE-2008-86) (notice of filing and immediate effectiveness).

trading hours for these products. The text of the proposed rule change is available on NYSE Arca's Web site at [www.nyse.com](http://www.nyse.com), on the Commission's Web site at [www.sec.gov](http://www.sec.gov), and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Rule 6.4 Commentary .05 and Rule 7.1 Commentary .02 to establish strike price intervals and trading hours for options on Index-Linked Securities ("ILS"), also known as Exchange-Traded Notes ("ETN"), prior to the Exchange actually listing and trading these products.

The Commission has approved the Exchange's proposal, as well as the proposals of other options exchanges, to enable the listing and trading of options on ILS (ETN).<sup>4</sup> Options trading has not commenced to date and is contingent upon the Commission's approval of The Options

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<sup>4</sup> See supra Note 3.

Clearing Corporation's ("OCC") proposed supplement to the Options Disclosure Document ("ODD") that will provide disclosure regarding options on Index-Linked Securities.<sup>5</sup>

#### \$1 Strikes for ILS (ETN) Options

Prior to the commencement of trading options on Index-Linked Securities, the Exchange is proposing to establish that strike price intervals of \$1 will be permitted where the strike price is less than \$200. Where the strike price is greater than \$200, \$5 strikes will be permitted. These proposed changes are reflected by the addition to Commentary .05 to Rule 6.4.

The Exchange is seeking to establish \$1 strikes for ILS (ETN) options where the strike price is less than \$200 because the Exchange believes the marketplace and investors will be expecting these types of options to trade in a similar manner to options on exchange-traded funds ("ETFs"). Strike prices for ETF options are permitted in \$1 or greater intervals where the strike price is \$200 or less and \$5 or greater where the strike price is greater than \$200. Accordingly, the Exchange believes that the rationale for permitting \$1 strikes for ETF options equally applies to permitting \$1 strikes for ILS (ETN) options, and that investors will be better served if \$1 strike price intervals are available for ILS (ETN) options where the strike price is less than \$200. The Exchange believes that \$1 strike price intervals for options on Index-Linked Securities will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives.

#### Trading Hours for ILS (ETN) Options

The Exchange proposes to amend Commentary .02 to Rule 7.1 to provide that options on exchange-traded notes including Index-Linked Securities may be traded on the Exchange until

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<sup>5</sup> OCC previously received Commission approval to clear options based on Index-Linked Securities. See Securities Exchange Act Release No. 60872 (October 23, 2009), 74 FR 55878 (October 29, 2009) (SR-OCC-2009-14) (approval order).

1:15 p.m. (Pacific Time) each business day. This will establish similar trading hours for ILS (ETN) options as the currently-established trading hours for ETF options.

The Exchange expects that other option exchanges that have adopted rules providing for the listing and trading of options on Index-Linked Securities has or will submit similar proposals.<sup>6</sup>

The Exchange has analyzed its capacity and believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing and trading of \$1 strikes where the strike price is less than \$200 for ILS (ETN) options.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>7</sup> of the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b)(5)<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system by having strike price intervals and trading hours established prior to the commencement of trading in options on Index-Linked Securities and thereby lessening the likelihood for investor confusion.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>6</sup> See, for example, Securities Exchange Act Release No. 61466 (February 2, 2010), 75 FR 6243 (February 8, 2010) (SR-CBOE-2010-005) (notice of filing).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that doing so is consistent with the protection of investors and the public interest. The Commission notes that it recently approved the same changes to strike price intervals and trading hours for options on Index-Linked Securities for another exchange.<sup>11</sup> The Commission believes that the proposed changes to strike price intervals and trading hours for options on Index-Linked Securities do not raise any novel regulatory issues, and waiver of the operative delay should benefit investors by creating consistency and predictability for investors who may view these products as serving

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>11</sup> See Securities Exchange Act Release Nos. 61696 (March 12, 2010), 75 FR 13174 (March 18, 2010) (SR-CBOE-2010-005); 61943 (April 20, 2010), 75 FR 21689 (April 26, 2010) (SR-Phlx-2010-40).

similar investment functions in the marketplace to ETFs. Therefore, the Commission designates the proposal operative upon filing.<sup>12</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2010-37 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2010-37. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all

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<sup>12</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2010-37 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Elizabeth M. Murphy  
Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).